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8 *Attorneys for Defendants State of California, by and*
through the California Highway Patrol, Blackwood,
9 *Kee, and Rubalcava*

10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA
12 EASTERN DIVISION
13

14 **L.C., et al.,**

15 Plaintiffs,

16 v.

17 **STATE OF CALIFORNIA, et al.,**

18 Defendants.
19
20

No. 5:22-cv-00949 KK (SHKx)

**STATE DEFENDANTS' NOTICE
OF MOTION AND MOTION FOR
SUMMARY JUDGMENT**

Date: March 20, 2025
Time: 9:30 a.m.
Courtroom: 3 (3rd Floor)
Judge: Hon. Kenly Kiya Kato
Trial Date: June 2, 2025
Action Filed: June 7, 2022

21
22 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

23 PLEASE TAKE NOTICE that on March 20, 2025, at 9:30 a.m., or as soon
24 thereafter as the matter may be heard in Courtroom 3 of the above-entitled court,
25 before the Honorable Kenly Kiya Kato, Defendants State of California, by and
26 through the California Highway Patrol, Michael Blackwood, Isaiah Kee, and
27 Bernardo Rubalcava will move, under Federal Rule of Civil Procedure 56 and
28 Local Rule 56-1, for summary judgment on the grounds that:

1 (1) Defendants Blackwood, Kee, and Rubalcava used objectively reasonable
2 and necessary force under the totality of the circumstances to overcome decedent
3 Hector Puga's resistance, the immediate threat of seriously bodily injury or death
4 Puga posed to the Defendants and other officers on scene, and to stop a fleeing
5 felon such that Plaintiffs' claims for excessive force under the Fourth Amendment,
6 battery and negligence under California Law, and violation of the California Bane
7 Act fail.

8 (2) No evidence shows that Defendants Blackwood, Kee, and Rubalcava acted
9 with a purpose to harm Puga unrelated to a legitimate law enforcement objective
10 such that Plaintiffs' claim for violations of their substantive due process rights
11 under the Fourteenth Amendment fail. .

12 (3) Defendants Blackwood, Kee and Rubalcava are entitled to qualified
13 immunity.

14 (4) Defendant Rubalcava did not cause Puga's death, therefore Plaintiffs'
15 wrongful death claim is barred against him.

16 (5) Defendants Blackwood, Kee, and Rubalcava's pre-shooting tactics were
17 reasonable and met the standard of care, such that Plaintiffs' negligence claim
18 against them fails.

19 (6) Defendants Blackwood, Kee, and Rubalcava are immune from Plaintiffs'
20 state-law claims because Defendants acted in self-defense or in defense of others.

21 (7) Because there is no liability for Blackwood, Kee, or Rubalcava's conduct,
22 Plaintiffs' state-law claims for vicariously liability against the State of California
23 also fail.

24 The motion is based on this Notice, the Memorandum of Points and
25 Authorities, the Statement of Uncontroverted Facts, the Declaration of Diana
26 Esquivel, the pleadings, records, and files in this action, and such other matters as
27 may properly come before the Court.
28

1 **Informal resolution efforts.** As required under the Court's Standing Order in
2 Civil Actions and Local Rule 7-16, the parties met and conferred prior to the filing
3 of this motion. The undersigned verbally outlined the factual and legal basis for the
4 motion during the parties' February 17, 2025 telephonic conference. Plaintiffs
5 agreed to dismiss the First and Third Claims for Relief in the Third Amended
6 Complaint and to not pursue any claim based on Defendants' alleged denial of
7 medical care to Puga. (ECF No. 101.) The parties were unable to reach agreement
8 on any of the remaining claims.

9
10 Dated: February 20, 2025

Respectfully submitted,

11 ROB BONTA
12 Attorney General of California
13 NORMAN D. MORRISON
Supervising Deputy Attorney General

14 */s/ Diana Esquivel*

15 DIANA ESQUIVEL
16 Deputy Attorney General
17 *Attorneys for Defendants State of*
18 *Cal., by and through the Cal.*
Highway Patrol, Blackwood, Kee,
and Rubalcava

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